REMARKS AND ARGUMENTS

Claim Rejections - 35 USC § 102

Claims 1-4, 8-10, 12-25 and 27-42

The Examiner has rejected claims 1-4, 8-10, 12-25 and 27-42 under 35 U.S.C. 102(e) as being anticipated by Sugimoto et al. (WO 03/010832) (hereafter "Sugimoto WO"). The Examiner also states that EP 1,418,628 is from the same patent family as Sugimoto WO and refers to the EP reference for citing the appropriate teachings.

Examiner notes that Sugimoto WO is not prior art under 35 U.S.C. 102(e) which states:

> "an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States *only if* the international application designated the United States and was published under Article 21(2) of such treaty *in the English language*." (Emphasis added).

Sugimoto WO was not published in English, but rather in Japanese, as indicated in the WIPO database which is accessible to the public. A two-page printout of the bibliographic data of Sugimoto from the official WIPO database is attached herewith as Appendix A. Page 2 of the printout indicates that the Publication Language is Japanese (JA). Because the WIPO publication of Sugimoto WO was not published in English, the

reference is not prior art under 35 U.S.C. 102(e). As noted in the previous communication with this Office, Sugimoto WO also does not qualify as prior art under 35 U.S.C. 102(a). Applicants respectfully request that Sugimoto WO be removed as a prior art reference.

Applicants note that claim 4 has been canceled.

Applicants submit that claims 1-3, 8-10, 12-25 and 27-42 are allowable.

Claims 1, 6 and 7

The Examiner again rejects claim 1 and also claims 6 and 7 under 35 U.S.C. 102(b) as being anticipated by Carey et al. (US 6,204,523) (hereafter "Carey"). Although Applicants disagree with the Examiner's analysis of the prior art, claim 1 has been amended to more fully describe the subject matter therein and expedite the prosecution of the claims.

Amended claim 1 teaches an emitter having a conversion material region with conversion particles. Claim 1 further requires that the "conversion particles emit [a] second spectrum of light at a substantially uniform color and intensity." Carey does not teach, suggest or disclose this limitation. Carey teaches a high stability optical encapsulation and packaging for LEDs. The disclosure briefly mentions "particles of light-emitting material" in the following paragraph:

> "Similarly, particles of light-emitting material, such as phosphor, may be embedded in the optically transmissive cover. Depending on the type of optically transmissive cover used (i.e., the various

> embodiments discussed above), the particles can be embedded either in the hard shell or in the softer interior silicone material. Responsive to excitation by radiation from the LED die, such particles emit light of a different wavelength from the radiation of the LED die." (Carey: col.5, lines 23-31).

Nowhere does Carey teach that the particles should emit light having certain characteristics. Because Carey does not teach all of the limitations of Applicants' claim 1, the claim is not anticipated by the reference. Claim 1 is otherwise allowable.

Claims 6 and 7 both depend from claim 1 and, as such, are also allowable for at least the same reasons. [1]

Applicants respectfully request the withdrawal of the rejections of claims 1-3, 6-10, 12-25 and 27-42 for at least the reasons stated above.

Claim Rejections - 35 USC § 103

Claims 11, 22 and 43

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[1] In the Final Office Action regarding the rejection of claims 1, 6 and 7, the Examiner characterized citations provided by Applicants in the previous Response to the Office Action as "spurious case law excerpts." (See Final Office Action dated 8/24/2006: *Response to Arguments*, page 9). Applicants point out that the cited cases were taken directly from the MPEP; the citations are accurate and authentic. (See e.g., MPEP §§ 2121.01, 2164.08). As such, Applicant respectfully submits that the included citations are certainly anything but "spurious."

The Examiner has rejected claims 11, 22 and 43 under 35 U.S.C. § 103(a) as being unpatentable over Sugimoto. As previously noted Sugimoto is not prior art under § 102. Claims 11, 22 and 43 are allowable for at least the same reasons as the independent claims from which they depend.

Claim 5

The Examiner has rejected claim 5 under 35 U.S.C. § 103(a) as being unpatentable over Sugimoto in view of Duggal et al. (US 6,891,330) (hereafter "Duggal"). Claim 5 depends from allowable claim 1 and, as such, is also allowable for at least the same reasons.

Applicants respectfully request the withdrawal of the rejections of claims 5, 11, 22 and 43 for at least the reasons stated above.

Applicant Note

Applicants note that the Examiner does not address dependent claim 26 in the Final Office Action. Applicants submit that claim 26 is allowable for at least the same reasons as claim 18 from which it depends.

CONCLUSION

Applicants submit that claims 1-3 and 5-43 are in condition for allowance and respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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APPENDIX "A"

(WO/2003/019679) LIGHT EMITTING DEVICE USING LED

Latest bibliographic data on file with the International Bureau

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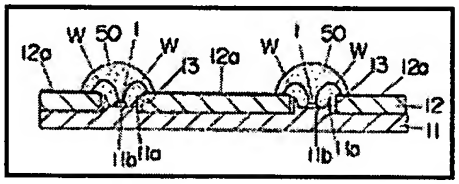
Title: LIGHT EMITTING DEVICE USING LED

Abstract: A light emitting device which can improve a radiation performance and allows light from a light emitting diode (LED) chip to be efficiently retrieved to the outside of the device, and which is provided with an Al-made metal plate (11) that has a projection (11a) projecting forward, with a storing recess (11b) formed in front of the projection (11a). An LED chip (1), being mounted on the bottom of the storing recess (11b) and thermally coupled to the metal plate (11), improves a radiation performance. A printed circuit board (12) joined to the front surface of the metal plate (11) and consisting of a glass epoxy substrate is provided therethrough with an insertion hole (13) into which the projection (11a) is inserted. The LED chip (1) and a bonding wire (W) are sealed by a transparent resin sealing portion (50). The inner peripheral surface of the storing recess (11b) that consists of part of the metal plate (11) functions as a reflection mirror for reflecting forward a light emitted from the LED chip (1), thereby allowing light from the LED chip (1) to be efficiently retrieved.



Designated States: AE, AG, AL, AM, AT, AU, AZ, BA, BB, BG, BR, BY, BZ, CA, CH, CN, CO, CR, CU, CZ, DE, DK, DM, DZ, EC, EE, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, KE, KG, KP, KR, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MK, MN, MW, MX, MZ, NO, NZ, OM, PH, PL, PT, RO, RU, SD, SE, SG, SI, SK, SL, TJ, TM, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM, ZW.
African Regional Intellectual Property Org. (ARIPO) (GH, GM, KE, LS, MW, MZ, SD, SL, SZ, TZ, UG, ZM, ZW)
Eurasian Patent Organization (EAPO) (AM, AZ, BY, KG, KZ, MD, RU, TJ, TM)
European Patent Office (EPO) (AT, BE, BG, CH, CY, CZ, DE, DK, EE, ES, FI, FR, GB, GR, IE, IT, LU, MC, NL, PT, SE, SK, TR)
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